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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/565,607	10/27/2006	Martin Kurth	16-938- P/US	2801
26294 7590 03/17/2009 TAROLLI, SUNDHEIM, COVELL & TUMMINO L.L.P. 1300 EAST NINTH STREET, SUITE 1700 CLEVEVLAND, OH 44114				
EXAMINER				
WRIGHT, MADISON L				
ART UNIT		PAPER NUMBER		
3781				
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03/17/2009		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/565,607

Applicant(s)

KURTH ET AL.

Examiner

Madison L. Wright

Art Unit

3781

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 October 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 January 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/5508)
- Paper No(s)/Mail Date 10/27/2006
- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Claim Objections

1. Claims 1-3 are objected to because of the following informalities: Claim 1 says that it is original but it has been changed by adding previous claim 4. Claims 2 and 3 are objected because the element number for the groove section is "3" where in claim 1 the element number for the groove section is "12."
2. The numbering of claims is not in accordance with 37 CFR 1.126 which requires the original numbering of the claims to be preserved throughout the prosecution. When claims are canceled, the remaining claims must not be renumbered. When new claims are presented, they must be numbered consecutively beginning with the number next following the highest numbered claims previously presented (whether entered or not).

Misnumbered claims 5 and 6 have been renumbered 4 and 5, respectively.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.
4. Claims 1-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 4,588,105 to Schmitz et al. ("Schmitz") in view of U.S. Patent No. 5,702,133 to Pavur et al. ("Pavur").

As to claim 1, Schmitz teaches closure cap for sealing an opening in a base part (vehicle panel 30), with an exterior marginal web (guide elements 4)

that can be inserted into the opening, with a shielding section (flange 2a) that protrudes past the marginal web (guide elements 4), and with a hot-melt adhesive (heat responsive plastic ring 3) that is arranged in the area of the shielding section (flange 2a) and is deformable in a plastic manner when heated above a softening temperature, whereby configured on the marginal web (guide elements 4) is an abutment arrangement (inner ends 7) that grips the base part (vehicle panel 30) when the closure cap (sealing plug 1) is inserted into the opening, and whereby the distance between the gripping contact areas (shoulder 7a) of the abutment arrangement (inner ends 7) and the bottom side of the hot-melt adhesive (heat responsive plastic ring 3), which faces the marginal web (guide elements 4), is smaller than the thickness of the base part (vehicle panel 30) in the marginal area (guide surface 8) of the opening, which is filled with hot-melt adhesive (heat responsive plastic ring 3) and which is open towards the exterior margin of the shielding section (flange 2a), but does not teach whereby a joint zone (3) having a flexural rigidity that is reduced versus that of the shielding section (4) is configured between the marginal web (5) and the shielding section (4) and such that an initial tension is created in the joint zone (3) when the closure cap (1) is inserted into the opening, characterized in that present between the shielding section (4) and the joint zone (3) is a groove-like transition section (12).

Pavur teaches a snap-in sealing plug 210 that has a central depressed hub 232 and a sloped rim 234, as seen in Figure 16. Pavur also has distal central tang 54 on plug fingers 48 to hold the cap closed.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to add the central hub and the sloped rim of Pavur with the cap as taught by Schmitz with the shoulder moved closer to the base part to keep the closure on tight and reduce the risk of accidental removal of the closure.

As to claim 2, modified Schmitz teaches closure cap according to Claim 1, characterized in that the joint zone exhibits a groove section (central depressed hub 232), the thickness of material of which is reduced versus adjacent interior areas, as taught by Pavur. In Figure 16, it is shown that the areas to the outside of the central hub are thicker than the central hub itself.

As to claim 3, modified Schmitz teaches closure cap according to Claim 2, characterized in that the groove section (central depressed hub 232) is open in the direction pointing away from the marginal web (Fig. 16), as taught by Pavur.

As to claim 4, modified Schmitz teaches closure cap according to Claim 1, characterized in that the abutment arrangement (inner ends 7) exhibits snap-in catches (distal central tang 54) that can move transversely to the marginal web (plug finger 48) and are connected with the marginal web (plug finger 48), as taught by Pavur.

As to claim 5, modified Schmitz teaches closure cap according to Claim 1, characterized in that the abutment arrangement (inner ends 7) has a number of

sawtooth-like projections (inner ends 7) configured on the marginal web (guide elements 4, Fig. 3).

Conclusion

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- U.S. Patent No. 6,464,101 B1 to Siragusa et al. discloses a cap that is held to the container by fingers.
- U.S. Patent No. 5,267,667 to Cozzani discloses a plug that is fixed by means of a hot melt adhesive where the distance between the gripping areas of the abutment and the bottom side of the hot melt adhesive is smaller than the thickness of the base part.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Madison L. Wright whose telephone number is 571-270-7427. The examiner can normally be reached on Monday thru Friday, 8:00 to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anthony Stashick can be reached on 571-272-4561. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/M. L. W./
Examiner, Art Unit 3781

/Anthony D Stashick/
Supervisory Patent Examiner, Art Unit 3781